

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
	)	
METROPLEX ON THE ATLANTIC, LLC,	)	Case No. 15-42499 (CEC)
	)	
Debtor.	)	
	)	

**DOF IV METROPLEX, LLC’S EX PARTE MOTION FOR LEAVE TO  
FILE PLAN TERM SHEET UNDER SEAL PURSUANT  
TO 11 U.S.C. §107(b), FED. R. BANK. P. 9018, AND LOCAL RULE 9018-1**

DOF IV Metroplex, LLC (“DOF”) by and through its undersigned counsel, hereby moves, on an *ex parte* basis, this Court for entry of an order granting DOF leave to file its proposed plan term sheet in connection with its opposition to the motion of the above-captioned debtor (the “Debtor”) for approval of priming post-petition financing (the “Financing Motion”) under seal and to limit service of such information only the Court, the Office of the United States Trustee and the professionals representing the Debtor, pursuant to 11 U.S.C. § 107(b), Fed. R. Bankr. P. 9018, and Local Bankruptcy Rule 9018-1. In support of the Motion, DOF respectfully states as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **BACKGROUND**

2. In October 2014, DOF obtained a judgment in a judicial foreclosure action against the Debtor. Before DOF could consummate the foreclosure sale in accordance with the judgment, on May 28, 2015 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11, United States Code.

3. DOF is the current holder of a mortgage and a related promissory note evidencing a loan to the Debtor in the original amount of \$22,825,000. The loan is secured by the real property and improvements. On the Petition Date, the amount owed by the Debtor to DOF as a result of the loan was not less than \$37,734,103.11.

4. This request is made in connection with DOF’s opposition the Financing Motion.

### **RELIEF REQUESTED AND BASES THEREFOR**

5. DOF respectfully requests that this Court enter an order permitting DOF to file the proposed term sheet (the “Term Sheet” or “Confidential Information”) under seal, pursuant to Bankruptcy Code Section 107(b), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Bankruptcy Rule 9018-1. Contemporaneously with the filing of this request, DOF is filing a sur-reply to the Financing Motion. In DOF’s sur-reply, DOF notes that it is willing to file a plan consistent with the Term Sheet. DOF seeks the relief sought in this Motion so as to obviate any claim that DOF has acted improperly in view of the Debtor’s current exclusive right to file a plan and solicit acceptances thereof. DOF will provide an unsealed copy of the Term Sheet only to (i) the Court; (ii) counsel for the Debtor; and (iii) the Office of the United States Trustee.

6. No previous request for the relief sought herein has been made to this or any other court.

WHEREFORE, for all the foregoing reasons, DOF respectfully requests that the Court enter an order substantially in the form of the proposed order attached hereto as Exhibit A granting DOF leave to file the Term Sheet under seal and to serve the Term Sheet on only (i) the Court; (ii) counsel for the Debtor; and (iii) the Office of the United States Trustee, and granting such other and further relief as is appropriate.

Dated: New York, NY  
October 22, 2015

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*Counsel for DOF IV Metroplex, LLC*

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METROPLEX ON THE ATLANTIC, LLC,	)	Case No. 15-42499 (CEC)
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**ORDER GRANTING DOF IV METROPLEX, LLC’S EX PARTE MOTION FOR  
LEAVE TO FILE PLAN TERM SHEET UNDER SEAL PURSUANT TO 11 U.S.C.  
§ 107(b), FED. R. BANK. P. 9018, AND LOCAL BANKRUPTCY RULE 9018-1**

Upon consideration of DOF IV Metroplex, LLC’s (“DOF”) *ex parte* motion for leave to file its proposed plan term sheet under seal pursuant to 11 U.S.C. §107(B) and Fed. R. Bank. P. 9018 (the “Motion”), seeking entry of an order granting DOF leave to file its proposed plan term sheet in opposition to the motion of the above-captioned debtor (the “Debtor”) for approval of priming post-petition financing under seal and provide such information only to the Court, the Office of the United States Trustee (the “UST”), and the professionals representing the Debtor, pursuant to 11 U.S.C. § 107(b), Fed. R. Bankr. P. 9018, and Local Bankruptcy Rule 9018-1; and after due deliberation, the Court having determined that cause exists to grant the relief requested in the Motion, it is hereby

ORDERED, that the Motion is granted; and it is further

ORDERED, that DOF is authorized to file the Term Sheet (as defined in the Motion) under seal with the Clerk of the Court in accordance with Local Bankruptcy Rule 9018-1 and to limit service of such Term Sheet to only the Court, the UST and the professionals for the Debtors, pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018; it is further

ORDERED, that the Term Sheet is to be disclosed to the professionals for the Debtor only, and such information shall not be disclosed to the Debtor's officers, directors or employees, pursuant to 11 U.S.C. § 107(b), Fed. R. Bankr. P. 9018, and Local Bankruptcy Rule 9018-1; and it is further

ORDERED, that the Court shall retain jurisdiction to interpret and enforce the terms of this Order.

Dated: \_\_\_\_\_, 2015

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Honorable Carla E. Craig  
United States Bankruptcy Judge